



Preliminary Amendment

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Justice C. Rines

USSN 10/810,542

Group Art Unit: 3696

Filed: March 27, 2004

Examiner: Cranford, Michael D.

Commissioner for Patents
P.O. Amendment-RCE
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Replying to the Office communication of November 25, 2008, reconsideration is respectfully requested of the rejection of claims 1, 4, 7-11 and 17-20 under 35 U.S.C. 102(b) (the Cooper publication) and claims 2, 3, 12 and 13 under 35 U.S.C. 103(a) as an "obvious" combination with the billing and feed distribution system of the Himeno et al publication; and of claims 5, 6, 15 and 16 on the grounds of "obvious" incorporation of music vendor distribution as taught in the patent to Levy.

With regard to these latter claims, the Office concedes that Cooper does not disclose the claimed billings and gateway service charges of the Levy and Himeno disclosures but proposes to incorporate them somehow into the Cooper structure as an "obvious" modification.

The Office appears, however, to have ignored the inventive feature residing in conceiving, as set forth in applicant's claim 1 and the other claims, the "implementing

of said ISP gateway also to serve as a media toll booth” in addition to its water marking and other functions – a concept lacking in Levy and Himeno.

Since all of the claims require in addition to the regular function of the ISP/consumer service billing relationship of the gateway operation, the “implementing (of) said ISP gateway also to serve as a media toll booth”, they appear clearly to define over any possible combination of the references, none of which disclose or suggest this further simultaneous function of the ISP gateway.